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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 30 July 2001, at 10.30 a.m.

Temporary Chairperson: Ms. MOTOC

Chairperson: Mr. WEISSBRODT

CONTENTS

OPENING OF THE SESSION

TRIBUTE TO THE MEMORY OF AHMED KHALIFA

ORGANIZATION OF WORK

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The meeting was called to order at 10.55 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRPERSON declared open the fifty-third session of the Sub-Commission on the Promotion and Protection of Human Rights. Since the previous session, there had been many developments in the field of human rights. In Europe, also, there had been violations of the most basic human rights, including the right to life, as well as continuing armed conflict. International peace and security remained the most important preconditions for ensuring respect for human rights.

2. The right to development was also a basic human right. The world's conscience, international civil society, had begun to react more and more strongly against the negative consequences for human rights of globalization. Those who actively defended the economic and social rights of the often forgotten victims were becoming victims themselves, as recent events at the summit of the most developed States had demonstrated.

3. Discrimination continued to exist throughout the world in many forms, from racism and anti-Semitism to discrimination against women, indigenous peoples and minorities. All too often, people were regularly subjected to discrimination on the sole basis of their identity. Such instances of discrimination were frequently denied and there was widespread impunity for the perpetrators.

4. In August 2000, there had been a meeting of the Working Group on Communications, which currently reported directly to the Commission. Three meetings of inter-sessional working groups had been held on minorities, contemporary forms of slavery and indigenous populations, the reports of which would be presented during the current session. In their capacity as members of the Working Group on Indigenous Populations, Ms. Daes and Mr. Alfonso Martínez had attended regional preparatory conferences for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Dakar, Tehran and Santiago, Chile. Racism and the forthcoming World Conference were ongoing concerns of the Sub-Commission.

5. She had presented the report of the Sub-Commission to the Commission on Human Rights at its fifty-seventh session, on which occasion she had mentioned the efforts made to reform the Sub-Commission pursuant to Commission resolution 2000/19, as well as the general principles for the application of the rules of procedure of the functional commissions of the Economic and Social Council, adopted by Sub-Commission resolution 1999/114. At its fifty-second session, the Sub-Commission had refrained from discussing situations being dealt with by the Commission, had abstained from adopting resolutions concerning specific countries and had recorded its debates on mass human rights violations only in the summary records. The Commission had adopted resolution 2001/60 and several other resolutions in response to requests from the Sub-Commission for working groups to be set up or for studies to be continued.

6. She had attended a meeting of the persons chairing the human rights treaty bodies and special rapporteurs, to which she had given an account of the Sub-Commission's most recent activities. The Chairpersons meeting had shown particular interest in the studies and working

papers produced by the Sub-Commission. The Chairpersons had indicated their intention to continue working closely with the Sub-Commission. The Chairperson of the Committee on Economic, Social and Cultural Rights had made a proposal for a study by the Sub-Commission, which would be brought to the attention of the experts during the current session. The Sub-Commission attached considerable importance to its work with other human rights bodies, although it was often handicapped by a shortage of resources, which had prevented it from being represented at a meeting concerning intellectual property rights organized by the Committee on Economic, Social and Cultural Rights.

7. The special rapporteurs of the Commission had also shown a strong interest in the conceptual aspects of the Sub-Commission's activities. The names of the Sub-Commission's special rapporteurs would in future appear on a joint consultation list of the Commission's special procedures and the human rights treaty monitoring bodies. That constituted an important step forward in the cooperation between the special rapporteurs of the Commission and the Sub-Commission.

8. There seemed to be a general consensus among the United Nations human rights bodies that the main role of the Sub-Commission should be to clarify human rights standards and concepts. At the previous session, particular attention had been paid to the discussion of reports, and there had been an increase in the number of requests for reports without financial implications. It was important for the experts to respect their mandates, and for a fair distribution of studies to be maintained. All the experts must be given an equal opportunity to make their voice heard, despite the economic imbalances affecting experts from different regions and States.

9. The agenda for the Sub-Commission's current session had been reduced to just seven items. It was important that the sub-items should reflect the diversity of human rights issues and should give Governments and non-governmental organizations (NGOs) a clear idea as to which agenda item they should speak under: they must also be given enough time to express their views. The new rationalized agenda would enable the Sub-Commission to try and pack into the three weeks allocated to it the issues raised by the work of the Social Forum and of the inter-sessional working groups approved by the Commission. In its resolution 2001/60, the Commission had suggested reforms designed to make the Sub-Commission's activities more efficient. In response, the Sub-Commission should set aside enough time to discuss working methods, and hold question and answer sessions prior to the presentation of reports, in closed meetings if possible. Nevertheless, the need for transparency, as well as the wishes expressed by NGOs, should always be taken into account.

10. The number of international bodies dealing with human rights violations was still very small in comparison to the number and intensity of violations that occurred. As Ms. Zerrougui had said on her election to the Sub-Commission, there was not a moment to lose in defending the cause of human rights.

TRIBUTE TO THE MEMORY OF AHMED KHALIFA

11. The TEMPORARY CHAIRPERSON announced the death of a distinguished former colleague, Mr. Khalifa.

12. Ms. DAES, Ms. WARZAZI, Mr. ALFONSO MARTINEZ, Mr. FAN Guoxiang and Mr. JOINET paid tribute to the memory of Ahmed Khalifa.

13. At the invitation of the Chairperson, the members of the Sub-Commission observed a minute of silence.

14. Mrs. ROBINSON (United Nations High Commissioner for Human Rights) said that the previous speakers' tributes to the memory of Mr. Khalifa had brought home to her in a tangible way the special character of the Sub-Commission - a group of dedicated individuals who placed their expertise at the service of humankind. It was clear that Mr. Khalifa, during his long years of service, had earned the deep respect and affection of his colleagues.

15. By virtue of its collective expertise and experience, the Sub-Commission, with the valuable support of the NGOs, had made recommendations on the development of international standards, deepened the world's understanding of human rights through studies of emerging issues and assisted in preventing human rights violations throughout the world. It had frequently been the driving force behind the creation of new thematic mechanisms of the Commission on Human Rights.

16. The forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had absorbed a great deal of her Office's time and energy over the past year. It offered the international community an ideal opportunity to start the new century by taking decisive steps against all forms of racism. The Sub-Commission had established a strong reputation in that campaign and could be proud of its role in making the World Conference a reality. It had prepared reports on affirmative action and the rights of non-citizens, and working papers on globalization in the context of increased incidents of racism, racial discrimination and xenophobia, on human rights problems affecting the Roma, and on discrimination based on work and descent. Mr. Pinheiro had made constructive proposals for the work of the World Conference at the first and second sessions of the Preparatory Committee and, together with Ms. Daes and Mr. Alfonso Martínez, would represent the Sub-Commission at the Conference itself.

17. The thematic working groups of the Sub-Commission performed a unique role in the United Nations human rights programme, facilitating interaction between civil society, Governments and the intergovernmental system and providing a forum for vulnerable groups that would otherwise have little or no access to the United Nations system.

18. Discussions on integration and autonomy in the Working Group on Minorities had revealed the variety and complexity of situations facing minorities in different parts of the world and had led to a more global understanding of the need for a creative approach to the protection and promotion of the rights of groups and communities.

19. The Working Group on Indigenous Populations had made a valuable contribution to the promotion and protection of indigenous peoples' rights through the drafting of a declaration on the rights of indigenous peoples. In recent years, it had also addressed issues relating to indigenous education, language, land rights, cultural heritage and health, reviewing developments throughout the world and providing a forum at Geneva in which indigenous

peoples could compare experience, engage in dialogue with their Governments and develop joint proposals within the United Nations system. The Working Group could take special pride in its contribution to the establishment of the Permanent Forum on Indigenous Issues, a key objective of the International Decade of the World's Indigenous People. Her Office would work hard to discharge its mandate as lead agency responsible for implementing the resolution to set up the Permanent Forum. Ms. Daes, who had chaired the Working Group on Indigenous Populations with great energy and integrity for many years, had also contributed to the preparations for the World Conference against Racism by addressing discrimination against indigenous peoples in her reports and working papers.

20. The Working Group on Contemporary Forms of Slavery was the only United Nations body monitoring compliance with the slavery conventions. Its priority issue for 2001 was trafficking in persons, especially women and children. She had been heartened on a recent visit to Ireland to be presented with the fruits of an Irish campaign against contemporary slavery, led by the NGO Trócaire, in the form of 43,000 postcards calling for an end to bonded labour and forms of contemporary slavery. She had taken it as evidence of the growing impact of the work of the United Nations on civil society throughout the world.

21. As the Secretary-General had noted, the overriding message from the United Nations Millennium Assembly in September 2000 had been the need to ensure that globalization became a positive force for all. At the request of the Commission on Human Rights, the Sub-Commission had earlier begun a study of the complex issue of globalization, broadening the scope of the debate, which had concentrated on economic aspects, to include its positive and negative impact on the full enjoyment of human rights. In that context, the Commission had approved a proposal by the Sub-Commission to host a Social Forum on economic, social and cultural rights. She trusted that the Forum would develop in a wider context the approach so successfully pioneered by the Working Group on Indigenous Populations.

22. Noting that the Sub-Commission and its sessional working group on the working methods and activities of transnational corporations had made progress in elaborating human rights guidelines for business enterprises, she commended Mr. Weissbrodt in particular on the work he had put into the preparation of draft guidelines in consultation with all the main actors. While Governments bore primary responsibility for ensuring respect for human rights, corporations, which had grown tremendously in terms of the scope of their activities and their power in the world, also had a strong duty to abide by the Universal Declaration of Human Rights and other international human rights principles. In his Global Compact initiative, the Secretary-General had recognized their potential as contributors to the protection and promotion of human rights. With power came responsibility and she hoped that the Sub-Commission and its working group would help to define that responsibility by further developing the guidelines for companies, using input from Governments, intergovernmental organizations, NGOs, organizations of workers and the business community.

23. The United Nations and the human rights community had long benefited from the expertise of the Sub-Commission in drafting human rights standards, shedding light on new issues and devising procedures for the protection of human rights. To maintain its high standing, the Sub-Commission must continue to meet the highest standards of precision and objectivity.

ORGANIZATION OF WORK (item 1 of the provisional agenda)

Election of officers

24. Ms. DAES nominated Mr. Weissbrodt for the office of Chairperson.

25. Mr. JOINET seconded the nomination.

26. Mr. Weissbrodt was elected Chairperson by acclamation.

27. Mr. Weissbrodt took the Chair.

28. The CHAIRPERSON invited nominations for the offices of Vice-Chairperson.

29. Mr. ALFONSO MARTÍNEZ proposed Mr. Pinheiro.

30. Mr. FAN Guoxiang proposed Mr. Park.

31. Mr. KARTASHKIN proposed Mr. Ogurtsov.

32. Mr. Pinheiro, Mr. Park and Mr. Ogurtsov were elected Vice-Chairpersons by acclamation.

33. Mr. GUISSÉ nominated Mr. Preware for the office of Rapporteur.

34. Mr. Preware was elected Rapporteur by acclamation.

35. The CHAIRPERSON, having expressed his appreciation to the members of the Sub-Commission for electing him to preside over the session and thanked his predecessor, Ms. Iulia Motoc, for her very capable leadership of the Sub-Commission during the previous year, said that the Sub-Commission on the Promotion and Protection of Human Rights was one of the very few international human rights mechanisms to allow close interaction with NGOs and that had led to the identification of crucial new human rights issues and the development of a number of innovative mechanisms.

36. Many of the Sub-Commission's accomplishments stemmed from the establishment of its working groups. They included the Working Group on Indigenous Populations, which had made a decisive contribution to the rights of indigenous peoples and put indigenous issues on the agenda of the United Nations; the Working Group on Contemporary Forms of Slavery, which was the only mechanism of the United Nations system for monitoring compliance with various multilateral human rights treaties relating to slavery and similar practices; the Working Group on Minorities, which addressed issues relating to minorities in a more intensive and constructive manner than any other component of the United Nations system; and the Working Group on the Administration of Justice, which, in 1998, had finished drafting the international convention on the protection of all persons from forced disappearances, and was currently focusing on issues

such as the abolition of the death penalty, particularly juvenile executions, discrimination in the legal system, and problems relating to extraordinary courts. Also, in 1998, a sessional working group on the working methods and activities of transnational corporations had been established to examine human rights problems in the business sector.

37. A second major contribution of the Sub-Commission was the introduction of new and emerging country problems into the United Nations human rights agenda. Since the Sub-Commission was composed of independent experts, it had a unique position within the United Nations system, which allowed it to identify and address human rights problems that Government representatives on the Commission and in the General Assembly might be reluctant to tackle.

38. Although, in its resolution 2001/60, the Commission had made it clear that the Sub-Commission should refrain from adopting country-specific resolutions or mentioning specific countries in thematic resolutions, it was, nevertheless, equally clear that the Sub-Commission should continue to debate country situations that were not being dealt with in the Commission or that involved urgent matters relating to serious violations of human rights.

39. A third significant contribution of the Sub-Commission was in the form of its studies on critical human rights issues, such as globalization, terrorism, the rights of non-citizens, affirmative action, indigenous rights to land, and traditional practices affecting the health of women. At its current session, the Sub-Commission might wish to focus on the requests for studies and other research assistance received from the Commission and human rights treaty bodies; for example, the Commission had asked the Sub-Commission to examine the need to develop guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty and also to consider what it could contribute to the reflections of the International Bioethics Committee on the follow-up to the Universal Declaration on the Human Genome and Human Rights.

40. One way in which the Sub-Commission could continue to play a unique role within the United Nations was to cooperate more closely with the treaty bodies and, in particular, respond to their requests for substantive studies on urgent human rights issues. It had, in the past, responded to one such request from the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights had recently requested assistance with a study on non-discrimination in relation to economic, social and cultural rights in preparation for a general comment on that issue.

41. With regard to improving the working methods of the Sub-Commission, last year the agenda had been reduced to 7 items, as compared with 14 items in 1999; the agenda for 2001 also comprised 7 items and any additional ideas that deserved discussion should be placed in sub-items. In future, it might be possible to circulate, whether electronically or in paper format, unedited reports and working papers to members of the Sub-Commission prior to their arrival in Geneva, in order to help them prepare for the session in advance. It was also important to find ways of improving the quality of the substantive discussions and the studies. One possibility was that all members of the Sub-Commission who were serving as special rapporteurs for studies

or who had undertaken a working paper that might become a study, and the chairpersons or designated representatives of each working group should hold informal discussions during the three-week session, during which they could receive input from Governments, NGOs and other interested persons and answer any questions about their work, thereby developing a true dialogue.

42. To encourage more interactive dialogue during the Sub-Commission's session, it might be possible to allocate a few minutes after the presentation of each report or working paper to allow any member or observer to ask the author some very brief questions, so as to create a short discussion and a pertinent exchange of ideas, rather than a series of formal statements.

43. The Sub-Commission lacked the opportunity to engage in informal consultations before resolutions were discussed and often found itself engaged in preliminary drafting in its public meetings. A process should be developed that allowed such matters to be carried out in private meetings, while major substantive discussions were held and resolutions adopted in public, as in the case of other United Nations bodies. He intended to try to meet the representatives of NGOs each Tuesday during the three-week session and, if necessary, would be willing to arrange similar informal meetings with Government representatives.

44. To make a more productive use of its allocated time, the Sub-Commission should also consider trying to complete its work on the timetable and working rules on the first day in order to meet in public on the second morning. That was not possible at the current session, however, because members had not had sufficient notice and the necessary documentation was not ready but it should be an objective for 2002.

Adoption of the agenda (E/CN.4/Sub.2/2001/1 and Add.1)

45. The CHAIRPERSON said that the provisional agenda was based on the list of draft provisional items for the agenda of the fifty-third session contained in Sub-Commission decision 2000/120. In that decision, the Sub-Commission took note of the items proposed by the Bureau, on the understanding that sub-items would be decided upon at the time of the adoption of the provisional agenda.

46. Ms. DAES, referring to paragraph 172 of the annotations to the provisional agenda (E/CN.4/Sub.2/2001/1/Add.1), said that she wished to remind members of decision 2000/110 of the Sub-Commission, whereby a new and very important sub-item entitled "Smuggling and trafficking in persons and the protection of their human rights" was to be included in the provisional agenda.

47. Mr. ALFONSO MARTÍNEZ said that he agreed with Ms. Daes about the importance of that new sub-item and believed that it should be formally incorporated into the agenda for the session.

48. It would not be easy to condense all the matters that required discussion into seven agenda items and, indeed, that had led to including issues such as the problems of indigenous

peoples and of minorities under the same agenda item (No. 5). It was most important that a distinction should be made between the two issues as they were totally different, and he suggested that the agenda item be divided into two sub-items.

49. Ms. WARZAZI said that she objected to agenda item 6 being entitled "Other issues", because it trivialized all the important issues that were to be discussed under that heading, in particular, those related to women. She suggested that the item could refer to new issues or new human rights violations.

50. Mr. PINHEIRO said that he supported the statement made by Mr. Alfonso Martinez with regard to the importance of distinguishing between the problems of minorities and of indigenous peoples, particularly in view of the latters' struggle to ensure that their issues were placed on the agendas of the treaty bodies.

51. Ms. MOTOC said that indigenous people had, indeed, fought for many years to have their rights recognized as separate from those of minorities. She thus supported the proposal by Mr. Alfonso Martínez that item 5 of the provisional agenda should be divided into two sub-items. She also supported Ms. Warzazi's proposal to amend the title of item 6, since "Other issues" hardly reflected the importance of the matters in question.

52. Supported by Ms. ZERROUGUI (who had prepared a working paper on the subject), she proposed that a sub-item on discrimination should be included under "Administration of justice" (item 3).

53. Mr. KARTASHKIN said that time would not allow for a detailed consideration of the more than 20 fundamental human rights issues proposed for discussion under item 6, especially if the relevant resolutions of the Commission on Human Rights were also to be discussed. The Bureau should accordingly decide which issues could be postponed until its fifty-fourth session, and which could be removed completely from the agenda.

54. Ms. WARZAZI, recalling that the Secretary-General had been instructed to integrate the gender perspective into the work of human rights mechanisms, proposed that agenda item 6 be entitled "Women and human rights". The Bureau should also consider amending the proposed title of item 7. She, for one, failed to grasp the significance of "Concluding items".

55. The CHAIRPERSON said he took it that the Sub-Commission wished the Bureau to revise the provisional agenda on the basis of the proposals that the members had made.

56. It was so agreed.

Methods of work of the Sub-Commission

57. The CHAIRPERSON drew attention to Commission on Human Rights resolution 1999/81, entitled "Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities", pursuant to paragraph 11 of which he invited the Chairperson of the Commission to address the Sub-Commission.

58. Mr. DESPOUY (Argentina), Chairperson of the Commission on Human Rights, said that it was an honour to address a body he had once chaired and on which he had served as a member for 12 years and as a special rapporteur on three occasions.

59. At the fifty-seventh session of the Commission on Human Rights, there had been more of everything than ever before: there had been 80 fully serviced meetings, including 27 evening meetings, and 723 parallel events. Most importantly, 30 per cent of the 3,663 delegates had been women. Five heads of States, more than 80 senior dignitaries, 300 representatives of other United Nations bodies and intergovernmental agencies, and 1,888 representatives of 250 NGOs had attended the session, testifying to the Commission's increasing visibility at the international level. Debate had been intense and constructive, not least on sensitive issues - as evidenced by the special Debate on "Tolerance and Respect". It was to be hoped that the positive momentum engendered by the session would also imbue the preparatory process for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

60. Among the Sub-Commission's most important contributions, he wished to highlight the establishment of the Working Group on Indigenous Populations, which had done a great deal to promote the human rights of indigenous peoples throughout the world, eventually paving the way for the establishment of a Permanent Forum on Indigenous Issues within the United Nations system. Moreover, on the Sub-Commission's recommendation, the Commission had decided, by its resolution 2001/57 of 24 April 2001, to appoint a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

61. He also wished to congratulate the Sub-Commission on its elaboration of international human rights instruments, including those currently being accorded special attention by the Commission. On the Sub-Commission's recommendation, an independent expert had been appointed by the Commission to examine the question of a draft protocol to the International Covenant on Economic, Social and Cultural Rights.

62. The Sub-Commission had also contributed decisively to increasing the visibility of economic, social and cultural rights at the international level, including the right to food and the right to adequate housing. Its work had also contributed greatly to the understanding of the impact of globalization on human rights.

63. In its resolution 2001/60, the Commission recognized the valuable contribution made by the Sub-Commission to the human rights work of the United Nations over the past 54 years and reaffirmed that the Sub-Commission could best assist the Commission by providing it with independent expert studies carried out by its members or alternates, as well as recommendations based on those studies, and by providing studies, research and expert advice at the request of the Commission.

64. The resolution also contained recommendations as to how the Sub-Commission might further improve its methods of work, in particular by: focusing on its primary role as an advisory body to the Commission; giving particular attention to the selection of studies specifically recommended by the Commission; respecting strictly the highest standards of

impartiality and expertise; facilitating efficient and effective participation of NGOs; focusing strictly on questions relating to human rights in accordance with its mandate; and avoiding duplication of its work with that being carried out by other competent bodies and mechanisms.

65. The Commission also invited the Sub-Commission, inter alia, to avoid prolonged procedural debates in public meetings. It should continue to submit its summary records to the Commission.

66. The Commission and Sub-Commission were faced with the common challenge of refining their working methods and enhancing their effectiveness in the face of increasing pressure. In particular, the Sub-Commission should ensure that it made full use of the qualifications of its experts. It continued to carry out laudable work in the field of human rights. Indeed, the development of human rights norms constituted the most revolutionary legal transformation of the twentieth century and one of the most meaningful legacies to the new millennium.

67. Lastly, he wished to pay tribute to the memory of Mr. Khalifa.

Minute of silence in honour of victims of all forms of violations of human rights in all regions of the world

68. The CHAIRPERSON said that, by its decision 1994/103, as orally amended in 1997, the Sub-Commission had decided to observe at the commencement of each of its annual sessions a minute of silence in honour of victims of all forms of violations of human rights in all regions of the world.

69. The members of the Sub-Commission observed a minute of silence.

70. Mr. ALFONSO MARTÍNEZ suggested that the Sub-Commission should take advantage of a unique opportunity to engage in constructive dialogue with a Chairperson of the Commission on Human Rights who had also chaired the Sub-Commission.

71. The CHAIRPERSON said that provision had been made for such dialogue in a closed meeting.

72. Mr. LEBAKINE (Secretary of the Sub-Commission) said that 18 of the sessional documents had been issued and the remaining documents were in their final stage. The delay was due to the limited capacity of the Conference Services which had been doing their best to cope with the late submission of documents and to cater for overlapping meetings of several bodies, with teams of translators working overtime. He referred the Sub-Commission to document E/CN.4/Sub.2/2001/CRP.3, which provided an overview of the status of the documentation for the fifty-third session.

The meeting rose at 1.15 p.m.